

**ORDER BELOW EXH.:C-13.**

( DATE :- 05/12/2022 )

1) Respondent has filed this application for framing of and deciding of issue regarding maintainability of complaint in present form. According to respondent, since services of complainant are terminated by order dated 13/07/2012, the claim has become infructuous and if issue of maintainability is not decided then it will unnecessarily waste time and energy of all concerned.

2) Complainant's Ld. Advocate opposed the application on the ground that interim order in favour of complainant is intact till today and all aspects are considered by the Court while deciding interim relief application.

3) Heard rival Advocates.

4) While passing order below Exh.:-U-2 my Ld. Predecessor had observed that,

‘सामनेवाला हे सरकारी संस्था आहे आणि म्हणून प्रत्यक्ष हाताने किंवा पोस्टाने अॅकच्युअल सर्किट्स झाल्याचे तारीख ही ग्राहय मानता येईल. ती ता. १३/०७/२०१२ असेलच असे अनुमान याक्षणी तरी काढता येत नाही.’

5) Apparently, my Ld. Predecessor made above observation since he was deciding interim application and evidence was yet to be adduced. Now since issues are framed, parties will be leading evidence.

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The alleged fact of termination of complainant on 13/07/2012 goes to the root of the case and it will be appropriate to frame and decide issue of maintainability of complaint by giving parties opportunity to lead evidence. It will also be helpful for further proceeding of this case. It will not cause prejudice to any party. On the contrary, it will offer clarity on the core issue of termination and whether pleadings need to be amended. It will actually aid complainant in presenting case properly.

6) Facts of this case are peculiarly distinct. So, D. P. Maheshwari Vs. Delhi Administration; 1984 AIR 153 case law will not be applicable.

7) Accordingly, following order is passed :

**ORDER**

- 1) Application is allowed.
- 2) Additional issue 1 (A) be framed as follows :  
“Whether complaint is maintainable in present form ?”
- 3) Parties to lead evidence on issue no. 1 (A).
- 4) Issue no. 1 (A) will be decided before remaining issues.

DATE :- 05/12/2022.

SATARA.

(Anushree R. Rahane)  
Judge,  
Labour Court, Satara.

MIM